IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 662 OF 2007

Farooque Habib Sheikh ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. Shahid Azmi, Advocate for the applicant.
Mrs. M.H.Mhatre, APP for the State.

CORAM : J.H. BHATIA, J.
DATE : 8TH MARCH, 2007.

P.C.

. Heard Mr. Azmi, learned Counsel for the applicant and Mrs. Mhatre, learned APP for the State. The applicant seeks anticipatory bail in crime No 34/2007, registered at Nagpada Police Station for the offences punishable under Sections 323, 504, 506, 307 r/w section 34 of Indian Penal Code.

2. The offence was registered on a report lodged by one Nadim on 3/2/2007. The report reveals that on that day one Sohel, the brother of Nadim, was running an autorickshaw. At about 1 P.M. when the autorickshaw was near Byculla Railway Station, two passengers came to Sohel and asked him to take them to Sankli Street but he refused because the road was in bad condition. Due to this, those two persons assaulted, abused and threatened

him and went away. Later on at about 2 P.M. when Sohel was returning home, he saw the persons, who had assaulted him, near Dubli compound at Sankli street. After seeing them, sohel contacted his brother Nadim on phone that he had seen the persons, who had assaulted him. Therefore Nadim and his another brother Anjum went to the spot on a motorcycle and Sohel pointed out the persons who had assaulted him. Therefore, Nadim and his brothers went to that person and asked them as to why they had assaulted Sohel. On this they began to abuse. One of them, who is identified as Raju Tiger, assaulted Anjum with a sharp weapon but he could save himself. Thereafter said Raju Tiger assaulted Nadim with knife due to which he suffered injury on the chest. When this was going on Farooq, a companion of Raju, abused Sohel and Anjum and also beat them with kicks and fist blows. When this fight was going on between the two parties, third person also came and began to participate in the scuffle. Farooq is the present applicant. Nadim appears to have suffered some contused lacerated wounds. It appears that as far as accused Raju is concerned, he assaulted with knife. The present applicant was not armed with any weapon. Nadim and his brothers had been to that spot in search of the persons who had earlier

assaulted and threatened their brother and there a fight took place and during the fight, the present applicant also gave kicks and fist blows. Mrs. Mhatre, learned A.P.P. informs that the custody of the present applicant is required for the purpose of identification parade. She also informs that when the interim relief was granted by the Sessions Court, the present applicant had appeared ar the police station and his statement is already recorded. However, in the F.I.R. name of the present applicant is clearly shown as accused no.2 and only 3rd person was unknown for whom identification parade is required. Nothing is required to be recovered from the present applicant. Taking into consideration the circumstances in which the incident occurred and the role played by he present applicant, I find that anticipatory bail may be granted to the present applicant.

3. In even of arrest in Crime No.34/2007, registered at Nagpada Police Station, the present applicant be released on his executing P.R. of Rs. 10,000/- with surety in like amount with condition that he shall not tamper with prosecution evidence and shall make himself available as and when required for the

purpose of investigation and interrogation.

(J.H. BHATIA, J.)